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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,877	03/29/2001	Scott Wolinsky	IT/01	7170

7590

06/26/2003

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EXAMINER

JONES, SCOTT E

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 06/26/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

<b>Office Action Summary</b>	Application No. 09/823,877	Applicant(s) WOLINSKY, SCOTT	
	Examiner Scott E. Jones	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 April 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____    | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment filed on April 16, 2003 in which applicant amends claims 1, 2, 10, 19, 28, and 37-40, cancels claims 41-44, 46-52, and 54-59, and makes a remark about the prior art in general.

### ***Drawings***

2. Color photographs and color drawings are acceptable only for examination purposes unless a petition filed under 37 CFR 1.84(a)(2) is granted permitting their use as acceptable drawings. In the event that applicant wishes to use the drawings currently on file as acceptable drawings, a petition must be filed for acceptance of the color photographs or color drawings as acceptable drawings. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and an amendment to the first paragraph of the brief description of the drawings section of the specification which states:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the U.S. Patent and Trademark Office upon request and payment of the necessary fee.

3. Color photographs will be accepted if the conditions for accepting color drawings have been satisfied.

4. In order to avoid abandonment, the drawing informalities noted in Paper No.'s 4 and 7, mailed on July 29, 2002 and January 30, 2003, must now be corrected. Correction can only be effected in the manner set forth in the above noted paper.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3713

6. Claims 1, 7-10, 16-19, 25-28, and 34-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perlman (U.S. 5,558,339).

Perlman discloses an apparatus and method for linking multiple remote players of real-time games over a traditional telephone line. Perlman accomplishes this goal by having prospective players dial into a server which determines, based on a telephone number and information provided by a player, which players to connect to each other to play the game. Once this match is determined, both players are disconnected from the server, and one of the player's computers automatically dials the other player's phone number and establishes a direct connection via a traditional telephone line to play the game.

Perlman describes a player's phone number as an "address" or "network address" in a data network. However, due to privacy concerns, a player's phone number is not "explicitly" shown to the opposing player. Rather, a screen name or handle, and identification code is sent and displayed by both computers. Therefore, the examiner contends that the screen name, handle, and/or identification code are equivalent to a player's telephone number because each are used to identify a particular player (Figures 3, 4, and 8, Column 10, lines 18-35, and Column 11, lines 20-49).

Furthermore, players are able to communicate with each other via speakerphone during the game (Column 41, line 65-Column 42, line 56).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to use Perlman's apparatus and method to use a screen name and identification code to identify game players. One would be motivated to do so because of important privacy considerations.

Additionally, regarding claims 8, 17, 26, and 35, Perlman seems to lack explicitly disclosing one of the terminals is a wireless telephone, walkie-talkie, or wireless toy. However, to one having ordinary skill in the art at the time of applicant's invention, it would have been obvious to incorporate a wireless telephone, walkie-talkie, or wireless toy in Perlman's system. Doing so enables a player the mobility to play the game remotely from traditional landlines.

Art Unit: 3713

7. Claims 2-6, 11-15, 20-24, and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perlman (U.S. 5,558,339) in view of Teshima et al. (U.S. 5,273,288) and further in view of Golad (U.S. 6,231,441).

Perlman discloses that as discussed above regarding claims 1, 7-10, 16-19, 25-28, and 34-40.

Perlman seems to lack explicitly disclosing:

Regarding Claims 2, 11, 20, and 29:

- defining a plurality of identifiers used to differentiate between the first and second players;
- activating a first indicator representing the first player;
- activating a second indicator representing the second player;
- indicating at each terminal whose turn it is;
- receiving the instruction from the player whose turn it is;
- and displaying at each terminal the game move and identifier.

Regarding Claims 3, 12, 21, and 30:

- the game move and identifier are displayed on one or more keys of a keypad used to dial the dialed telephone number.

Regarding Claims 4, 13, 22, and 31:

- the received input instruction comprises at least one dual tone multi-frequency (DTMF) signal.

Regarding Claims 5, 14, 23, and 32:

- the player whose turn it is indicated by sequentially activating and deactivating one of the first and second indicators at each of the terminals.

Regarding Claims 6, 15, 24, and 33:

- the first and second indicators comprise color coded LEDs.

Art Unit: 3713

However, Teshima et al., like Perlman teaches of a game played over a telephone line. In particular, Teshima et al. teaches a communication terminal connected to a telephone line for playing a game with an opponent having the same game connected through a telephone line wherein game moves are shown on the key pad/grid used to dial telephone numbers (Abstract, Figure 4, Column 1, lines 8-12, 25-30, and Column 3, lines 10-21).

Golad (U.S. 6,231,441) teaches of a game board controlled by a computer/software that can be used for various games and is played by a plurality of players. Golad lacks explicitly disclosing that the games board can be played over a phone line. However, Golad teaches:

Regarding Claims 2, 11, 20, and 29:

- defining a plurality of identifiers used to differentiate between the first and second players (Figure 1, Column 1, line 4-Column 2, line 5, Column 2, line 59-Column 3, line 3, and Column 3, lines 35-43);
- activating a first indicator representing the first player (Figure 1, Column 1, line 4-Column 2, line 5, Column 2, line 59-Column 3, line 3, and Column 3, lines 35-43);
- activating a second indicator representing the second player (Figure 1, Column 1, line 4-Column 2, line 5, Column 2, line 59-Column 3, line 3, and Column 3, lines 35-43);
- indicating at each terminal whose turn it is (Figure 1, Column 1, line 4-Column 2, line 5, Column 2, line 59-Column 3, line 3, and Column 3, lines 35-43);
- receiving the instruction from the player whose turn it is (Figure 1, Column 1, line 4-Column 2, line 5, Column 2, line 59-Column 3, line 3, and Column 3, lines 35-43);
- and displaying at each terminal the game move and identifier (Figure 1, Column 1, line 4-Column 2, line 5, Column 2, line 59-Column 3, line 3, and Column 3, lines 35-43).

Regarding Claims 3, 12, 21, and 30:

Art Unit: 3713

- the game move and identifier are displayed on one or more keys of a keypad used to dial the dialed telephone number (Figure 1, Column 1, line 4-Column 2, line 5, Column 2, line 59-Column 3, line 3, and Column 3, lines 35-43).

Regarding Claims 5, 14, 23, and 32:

- the player whose turn it is indicated by sequentially activating and deactivating one of the first and second indicators at each of the terminals (Figure 1, Column 1, line 4-Column 2, line 5, Column 2, line 59-Column 3, line 3, and Column 3, lines 35-43).

Regarding Claims 6, 15, 24, and 33:

- the first and second indicators comprise color coded LEDs (Figure 1, Column 1, line 4-Column 2, line 5, Column 2, line 59-Column 3, line 3, and Column 3, lines 35-43).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate the game features of Teshima et al. in Perlman's game communication system. One would be motivated to do so because a player may not have access to a personal computer at all times.

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate the features of Golad in the combination of Perlman in view of Teshima et al. Doing so enables players to easily differentiate between each player's game moves.

Furthermore, regarding claims 4, 13, 22, and 31, it would have been obvious to utilize (DTMF) signals in phone system keypads. Doing so would provide standard technology available for digital phones that was notoriously well known at the time of the applicant's invention.

#### ***Response to Arguments***

8. Applicant's arguments filed April 16, 2003 have been fully considered but they are not persuasive.

Art Unit: 3713

Applicant alleges the prior art fails to teach or suggest, "each of two communication terminals accesses its own telephone number from one memory location and the other terminal's telephone number from another memory location, and displays both telephone numbers at the same time." The examiner respectfully disagrees. As previously discussed in previous Office Action, Paper No. 7, Perlman describes a player's phone number as an "address" or "network address" in a data network. However, due to privacy concerns, a player's phone number is not "explicitly" shown to the opposing player. Rather, a screen name or handle, and identification code is sent and displayed by both computers. Therefore, the examiner contends that the screen name, handle, and/or identification code are equivalent to a player's telephone number because each are used to identify a particular player (Figures 3, 4, and 8, Column 10, lines 18-35, and Column 11, lines 20-49). Therefore, the rejection as stated in Office Action, Paper No. 7 is maintained.

9. Furthermore, regarding claims 2-6, 11-15, 20-24, and 29-33, except for the limitations to "each of two communication terminals accesses its own telephone number from one memory location and the other terminal's telephone number from another memory location, and displays both telephone numbers at the same time," applicant acquiesces to the rejection under 35 U.S.C. 103(a) as being unpatentable over Perlman (U.S. 5,558,339) in view of Teshima et al. (U.S. 5,273,288) and further in view of Golad (U.S. 6,231,441) by virtue of not responding to the rejection.

#### *Conclusion*

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action

Art Unit: 3713

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael O'Neill, Acting SPE can be reached on (703) 308-1148. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SEJ

sej

June 24, 2003



MICHAEL O'NEILL  
PRIMARY EXAMINER